

## **IC 36-7-5.1**

### **Chapter 5.1. Joint District Planning and Zoning**

#### **IC 36-7-5.1-1**

##### **"Commission" and "plan commission" defined**

Sec. 1. As used in this chapter, "commission" or "plan commission" refers to a joint district planning and zoning commission established under this chapter.

*As added by P.L.300-1989, SEC.2.*

#### **IC 36-7-5.1-2**

##### **"Joint district" defined**

Sec. 2. As used in this chapter, "joint district" means an area of real property (whether or not the property is located within the boundaries of one (1) or more municipalities, counties, or other political subdivisions) that is established as a joint district under this chapter.

*As added by P.L.300-1989, SEC.2.*

#### **IC 36-7-5.1-3**

##### **Advisory planning law; application**

Sec. 3. The advisory planning law portions of IC 36-7-4 apply to a commission and a joint district insofar as the advisory planning law portions of IC 36-7-4 are not inconsistent with this chapter, even if the county in which a joint district is located has adopted any part of the area planning law under IC 36-7-4.

*As added by P.L.300-1989, SEC.2.*

#### **IC 36-7-5.1-4**

##### **Municipal and county cooperative single and unified planning and zoning entities**

Sec. 4. One (1) or more municipalities (meeting the population, proximity, and ordinance requirements under section 9 of this chapter) and one (1) or more counties may cooperatively establish single and unified planning and zoning entities as joint districts to carry out this chapter on a less than countywide basis.

*As added by P.L.300-1989, SEC.2. Amended by P.L.1-1990, SEC.361.*

#### **IC 36-7-5.1-5**

##### **Municipal and county joint district planning and zoning commission**

Sec. 5. (a) The legislative bodies of one (1) or more municipalities (meeting the population and proximity requirements under section 9 of this chapter) and one (1) or more counties may establish, by identical ordinances, a joint district planning and zoning commission. The ordinances must specify the following:

- (1) The legal name of the commission.
  - (2) The boundaries of the joint district.
  - (3) The duration of the commission.
  - (4) Any other information necessary to form the commission.
- (b) A municipality having a population of more than three thousand

(3,000) but less than fifteen thousand (15,000) may pass an ordinance to establish a joint district for any territory that is located:

- (1) in the municipality; or
- (2) within five (5) miles of the municipality's corporate boundaries.

(c) A municipality having a population of more than twenty-five thousand (25,000) but less than fifty thousand (50,000) may pass an ordinance to establish a joint district for any territory that is located:

- (1) in the municipality; or
- (2) within ten (10) miles of the municipality's corporate boundaries.

(d) When the boundaries of a proposed joint district include real property lying within the corporate boundaries of a municipality, the municipality is subject to the jurisdiction of the joint district and the provisions of this chapter only if the municipality adopts an ordinance under subsection (a).

(e) After the boundaries and duration of a joint district have been established under subsection (a), the boundaries and the duration may not be changed.

*As added by P.L.300-1989, SEC.2.*

#### **IC 36-7-5.1-6**

##### **Authority of commission**

Sec. 6. After a commission is established, it shall exclusively exercise all the planning, zoning, platting, and land use policy authority for real property in the joint district. The joint district commission has exclusive authority, subject to section 7 of this chapter, to adopt a zoning ordinance or a subdivision control ordinance, or both. Any planning, zoning, platting, or land use functions exercised by any other unit or entity in the joint district shall cease. Except as provided in section 7 of this chapter, an action of the commission is final and does not require a reference to or an approval by a county or municipal legislative body.

*As added by P.L.300-1989, SEC.2.*

#### **IC 36-7-5.1-7**

##### **Joint district council**

Sec. 7. (a) A joint district council is established for each joint district formed under this chapter.

(b) The membership of the joint district council consists of:

- (1) the president of the town board of trustees;
- (2) the president of a second class city legislative body;
- (3) the president pro tempore of a third class city legislative body;
- (4) the president of a city-county legislative body (consolidated city); and
- (5) one (1) member of the county executive appointed by the county executive;

of each municipality and county that enacted an ordinance creating the joint district.

(c) Notwithstanding section 6 of this chapter, before an ordinance that is passed by a commission becomes effective, the joint district

council must approve the ordinance. A joint district commission shall forward a copy of each ordinance that the commission passes within three (3) business days after passage to the secretary of the joint district council.

(d) A joint district council shall conduct a hearing on an ordinance and shall publish notice of the hearing in accordance with IC 5-3-1 specifying the time and location of the meeting. A joint district council may approve, amend, or reject an ordinance of the commission at the hearing. If a joint district council does not conduct a hearing on an ordinance within twenty (20) days of receipt of the ordinance, the ordinance is considered approved by the joint district council.

(e) The auditor of the county in which a majority of the territory in a joint district is located shall be the secretary of the joint district council.

(f) A quorum consists of a majority of the entire membership of the joint district council.

(g) Action of the joint district council is not official unless it is authorized at a regular or special meeting by a majority of the members who are present at the meeting.

(h) the presiding officer of the joint district council is the member who is appointed by the executive of the county that enacts an ordinance creating a joint district. However, if more than one (1) county is in a joint district, then the joint district council member who is appointed by the executive of the county having the greatest amount of land in the joint district serves as the presiding officer.

(i) Either the presiding officer or a majority of the entire membership of the joint district council may call a regular or special meeting.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-8**

#### **Comprehensive plan; joint district limits; new municipality within existing joint district**

Sec. 8. (a) A commission may adopt a comprehensive plan (as provided for under the 500 Series of the advisory planning law) for the development of the joint district. The comprehensive plan, if adopted, does not have extraterritorial effect outside the defined boundaries of the joint district. However, a comprehensive plan adopted by a commission supersedes an existing or conflicting comprehensive plan governing any of the joint district.

(b) Before exercising its rights, powers, and duties under this chapter or the advisory planning law with respect to an area designated as a joint district, a commission must file with the recorder of each county in which a part of the joint district is located a description or map defining the limits of the joint district. If the commission revises the limits, it shall file a revised description or map defining those revised limits with each recorder.

(c) Until the commission adopts a comprehensive plan, a comprehensive plan that was in effect before the formation of the joint district applies to that portion of the joint district controlled by that comprehensive plan.

(d) Whenever a new municipality is incorporated and its boundaries lie in whole or in part within a joint district, the commission continues to exercise territorial jurisdiction within the new municipality or that portion of the municipality within the joint district, until the effective date of a municipal ordinance:

- (1) establishing an advisory plan commission under IC 36-7-4-202(a); or
- (2) adopting the area planning law under IC 36-7-4-202(b).

Beginning on that effective date, the planning and zoning function of the municipality shall be exercised by the municipality under the advisory planning law or area planning law.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-9**

#### **Membership of commission**

Sec. 9. The members of the commission shall be determined as follows:

- (1) The legislative body of each county where any part of the joint district is located shall choose four (4) members.
- (2) The legislative body of each municipality having a population of more than three thousand (3,000), but less than fifteen thousand (15,000), that passes an ordinance establishing a joint district and that is located within five (5) miles of the joint district shall choose three (3) members.
- (3) The city plan commission (or similar body) of each municipality having a population of more than twenty-five thousand (25,000), but less than fifty thousand (50,000), that passes an ordinance establishing a joint district and that is located within ten (10) miles of the joint district shall choose two (2) members.
- (4) The executive of each municipality meeting the population, proximity, and ordinance requirements of subdivision (3) shall choose one (1) member.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-10**

#### **Majority vote prerequisite to commission action**

Sec. 10. Commission action may be taken only upon the vote of a majority of its members.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-11**

#### **Membership qualifications**

Sec. 11. (a) Each member of the commission must have:

- (1) knowledge and experience regarding affairs in the joint district;
- (2) awareness of the social, economic, agricultural, and industrial conditions of the joint district; and
- (3) an interest in the development of the joint district.

(b) A challenge to the appointment of a member based on the qualifications described in subsection (a) must be filed within thirty

(30) days after the appointment. The challenge may be filed in the circuit court of any county that contains the entire joint district or any part of the joint district.

(c) Except as provided in subsection (d), a member must be a resident of a county where a part of the joint district is located or reside within ten (10) miles of the borders of the district.

(d) In a joint district that contains all or part of a county having a population of more than seventy-one thousand four hundred (71,400) but less than seventy-three thousand (73,000), two (2) of the members appointed by the legislative body of that county under section 9(1) of this chapter must, in addition to the requirements of subsections (a) and (b), be residents of any township that is entirely or partially located within the joint district.

*As added by P.L.300-1989, SEC.2. Amended by P.L.12-1992, SEC.167; P.L.170-2002, SEC.155.*

### **IC 36-7-5.1-12**

#### **Term**

Sec. 12. Members of the commission are appointed for a three (3) year term.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-13**

#### **Office space**

Sec. 13. One (1) of the counties or municipalities that adopted an ordinance creating the joint district shall provide suitable offices for the holding of commission meetings and for preserving the plans, maps, accounts, and other documents of the commission.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-14**

#### **Appropriations**

Sec. 14. After one (1) or more municipalities and one (1) or more counties cooperatively establish a joint district, the units creating the joint district may make an appropriation to carry out the duties of the commission. The units may apportion appropriations for the commission in any manner the units determine appropriate.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-15**

#### **Acceptance of gifts, donations, and grants; deposit; use**

Sec. 15. (a) A commission may accept gifts, donations, and grants from private or governmental services for commission purposes. The commission shall deposit money that it receives under this section in a joint district fund (or other suitable fund). The commission shall keep these funds available for expenditures for the purpose designated.

(b) The commission shall prepare and adopt an annual budget and submit it to the joint district council for approval or revision. If the joint district council does not consider the budget within thirty (30) days after submission of the budget, the budget is considered approved by the joint district council. After approval of the budget, money may be

expended only as budgeted, or as provided in this section for the use of unexpended or unencumbered funds.

(c) Any appropriated amounts remaining unexpended or unencumbered at the end of the fiscal year become part of a nonreverting cumulative joint district fund (or other suitable fund that the commission may establish) to be held in the name of the commission. The commission may authorize unbudgeted expenditures from this fund.

(d) A commission is responsible for the safekeeping and deposit of money it receives under this chapter. The state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books of the commission and shall periodically audit the commission.

(e) The secretary of the commission may receive, disburse, and handle money belonging to the commission, subject to applicable statutes and to any procedures that the commission may establish.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-16**

#### **Employees; professional counsel; delegation of authority**

Sec. 16. (a) The commission shall prescribe the qualifications, appoint, remove, prescribe the duties, and fix the compensation of employees necessary for the discharge of the duties of the commission. The compensation must be in conformity with salaries and compensation fixed up to that time for similar work by the fiscal body of a municipality or county that created the joint district.

(b) The commission may contract for special or temporary services of a professional counsel.

(c) The commission shall delegate authority to its employees to perform ministerial acts in all cases unless final action of the commission is necessary.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-17**

#### **Duties of commission**

Sec. 17. The commission has the duties listed in IC 36-7-4-401 to the extent those duties are consistent with this chapter.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-18**

#### **Lawsuits; process; costs**

Sec. 18. A commission may sue and be sued, with service of process upon the president of the commission. No costs may be taxed against the commission or any commission members in an action.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-19**

#### **Duties of commission under IC 36-7-4-405**

Sec. 19. The commission shall comply with IC 36-7-4-405 to the extent those duties are consistent with this chapter.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-20**

#### **Continuation of preexisting zoning ordinances**

Sec. 20. Until the commission adopts a zoning ordinance in the manner provided for under the 600 series of the advisory planning law, the zoning ordinance, if any, that is then in effect for the portion of the joint district controlled by that zoning ordinance shall continue in effect.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-21**

#### **Conforming structure and location**

Sec. 21. Within the joint district:

- (1) a structure may not be located; and
- (2) an improvement location permit for a structure on platted or unplatted land may not be issued;

unless the structure and location conform to the joint district zoning ordinance.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-22**

#### **Improvement location permits**

Sec. 22. The joint district zoning ordinance may designate an official or employee of the commission to issue improvement location permits within the jurisdiction of the commission and in conformance with the joint district zoning ordinance.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-23**

#### **Board of zoning appeals**

Sec. 23. (a) Notwithstanding IC 36-7-4-901, the commission shall establish a board of zoning appeals.

(b) The board of zoning appeals shall be composed of one (1) division of five (5) members who are selected according to section 24 of this chapter.

(c) The board of zoning appeals shall be known as the joint district board of zoning appeals.

(d) Except as provided in this section, a joint district board of zoning appeals has the exclusive territorial jurisdiction over all real property in the joint district.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-24**

#### **Membership of zoning appeals board**

Sec. 24. Notwithstanding IC 36-7-4-902, the division of the joint district board of zoning appeals consists of five (5) members as follows:

- (1) One (1) citizen member appointed by the commission who may or may not be a member of the commission.
- (2) Two (2) citizen members appointed by the legislative body of the county having the most acreage of real property in the joint

district.

(3) One (1) citizen member appointed by the most populous municipality that passed an ordinance creating the joint district.

(4) One (1) citizen member appointed by the second most populous municipality that passed an ordinance creating the district.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-25**

#### **Multiple office holding; residence requirement**

Sec. 25. (a) A member of the joint district board of zoning appeals may hold no other elective or appointive office in municipal, county, or state government, except as permitted by IC 36-7-4-902.

(b) A member of the joint district board of zoning appeals must be a resident of a county where a part of the joint district is located or reside within ten (10) miles of the borders of the joint district.

*As added by P.L.300-1989, SEC.2.*

### **IC 36-7-5.1-26**

#### **Variances**

Sec. 26. Notwithstanding IC 36-7-4-918.4, the joint district board of zoning appeals may not grant a variance of use from the terms of the applicable zoning ordinance.

*As added by P.L.300-1989, SEC.2.*